

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION**

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**PEGGY GRIFFIN and husband,  
RUSSELL GRIFFIN,  
Plaintiffs,**

**v.**

**WAL-MART STORES EAST, LP  
Defendant.**

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**Case No. 2:11-cv-00365  
JURY DEMANDED  
JUDGE J. RONNIE GREER**

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**DEFENDANT WALMART'S MOTION FOR SUMMARY JUDGMENT**

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Defendant Wal-Mart Stores East, LP, moves the Court for summary judgment pursuant to Tenn. R. Civ. P. 56.

This is a slip and fall premises liability case. Plaintiffs Peggy and Russell Griffin brought this action to recover for injuries allegedly sustained on October 16, 2010, when Plaintiff Peggy Griffin slipped and fell in the Johnson City, Tennessee Wal-Mart store.

**GROUND**

This motion should be granted because plaintiffs cannot establish the requisite elements of negligence to hold Wal-Mart liable under either an actual or constructive notice theory of liability. *See* TENN. CODE ANN. § 20-16-101 and *Hannan v. Alltel Publishing Co.*, 270 S.W.3d 1 (Tenn. 2008).

There is no genuine dispute as to any material fact, and Wal-Mart is entitled to judgment as a matter of law.

In support of this motion, Wal-Mart submits a memorandum of law, a statement of undisputed facts, the Affidavit of Brandee Hambrick (Exhibit B), the Surveillance Video of the fall (Manually filed as Exhibit A), and a copy of relevant excerpts from Plaintiff Peggy Griffin's Deposition (Exhibit C (a true and correct copy of Plaintiff's deposition will be provided upon completion by the court reporter)).

s/ Robyn L. Owens  
Andy Rowlett, No. 16277  
Robyn L. Owens, No. 27451  
HOWELL & FISHER, PLLC  
Court Square Building  
300 James Robertson Parkway  
Nashville, TN 37201-1107  
#615/244-3370  
Attorneys for defendant

#### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served electronically via the Court's ECF system, upon:

Arthur M. Fowler, Jr., Esq.  
Fowler & Fowler, PLLC  
130 East Market Street  
Johnson City, TN 37604

on this the 15<sup>th</sup> day of November, 2012.

s/ Robyn L. Owens